

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

Clerk's Minutes
Before the Honorable James O. Browning

CASE NO. CIV 22-0033 JB/JFR

DATE: 8/13/2024

TITLE: *Charley v. The United States of America, et al.*

COURTROOM CLERK: L. Rotonda

COURT REPORTER: J. Bean

COURT IN SESSION: 8:28 AM

TOTAL TIME: 0:40

TYPE OF PROCEEDING: MOTION HEARING

COURT RULING/DISPOSITION:

1. PLAINTIFFS' AMENDED MOTION FOR LEAVE TO RE-DEPOSE LARRY LYBBERT NURSE EDUCATOR [267] – DENIED, SEE BELOW;
2. PLAINTIFFS' MOTION FOR RELIEF BASED ON NEWLY DISCOVERED EVIDENCE REGARDING THE COURT'S RULING ON DEFENDANT NURSE SALES' AND NURSE GO'S MOTION FOR SUMMARY JUDGMENT (DOC. 233) AND (DOC. 234) [272] – ORAL ARGUMENT TO BE RESET FOR FUTURE DATE.

ATTORNEYS PRESENT FOR PLAINTIFF(S):

Melanie Ben
Theresa H

ATTORNEYS PRESENT FOR DEFENDANT(S):

Brett Eaton
John Checkett
Denise Chanez

PROCEEDINGS:

COURT IN SESSION: 8:28 AM

COURT: CALLS CASE, COUNSEL ENTER APPEARANCES.

MS. BEN: ARGUES IN SUPPORT OF PLAINTIFFS' AMENDED MOTION FOR LEAVE TO RE-DEPOSE LARRY LYBBERT NURSE EDUCATOR (DOC. [267](#)).

COURT: QUERIES MR. EATON REGARDING WHETHER THERE ARE ANY DOCUMENTS THAT PLAINTIFFS ARE SEEKING VIA MOTION.

MR. EATON: RESPONDS TO COURT'S QUERIES.

COURT: QUERIES MS. BEN REGARDING SAME.

Ms. BEN: RESPONDS TO COURT'S QUERIES, RESUMES ARGUMENT.

Mr. EATON: ARGUES IN OPPOSITION TO MOTION.

Mr. CHECKETT: INDICATES JOINS IN GOVERNMENT'S ARGUMENT.

Ms. CHANEZ: INDICATES JOINS IN GOVERNMENT'S ARGUMENT.

Ms. BEN: ARGUES IN REBUTTAL AS TO MOTION.

COURT: INDICATES THINKS PLAINTIFFS HAD DOCUMENTS IN QUESTION, WILL NOT REOPEN
DISCOVERY. WILL DENY SAME.

QUERIES COUNSEL REGARDING WHETHER PARTIES WISH TO TRY TO ACCOMPLISH ANYTHING
FURTHER DURING INSTANT HEARING.

Ms. CHANEZ: ADDRESSES COURT REGARDING NEW MOTION FILED AND STATUS OF BRIEFING ON
ADDITIONAL MOTION.

Mr. EATON: AGREES AS TO SAME, WILL DEFER TO PLAINTIFFS' COUNSEL WHO REPRESENT THAT
THEY ARE NOT PREPARED TO MOVE FORWARD WITH ARGUMENT ON MOTION.

COURT: NOTES THAT COURT WILL PROBABLY NOT STRIKE AFFIDAVIT. INDICATES THAT COURT IS
WORKING ON OPINION RELATED TO MOTIONS FOR SUMMARY JUDGMENT, PROVIDES STATUS
UPDATE.

COURT IN RECESS: 9:08 AM